

Remarks

Applicants request a reconsideration of the present patent application in view of the following remarks. No claims have been amended, cancelled or added. Therefore, claims 26-30, 32-38 and 47-49 are pending in the application.

Claims 26-30, 32-38 and 47-49 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,682,841 to Armstrong et al. ("the Armstrong reference"). Applicants respectfully traverse this rejection.

Claim 26 is directed to a method of producing electricity at an auxiliary power unit in a vehicle. The method includes adding a fuel and a reactant to a fuel reformer, producing a reformat at the fuel reformer, introducing the reformat to a fuel cell stack, and producing electrical power at the fuel cell stack. The method also includes sensing a reformer zone temperature at a reformer zone, wherein the fuel reformer is positioned within the reformer zone, determining whether the reformer zone temperature is at a first selected temperature range, and adding a first process air flow to the reformer zone if the reformer zone temperature rises above the first selected temperature range. In addition, the method includes sensing a hot zone temperature at a hot zone, wherein the fuel cell stack is positioned within the hot zone, determining whether the hot zone temperature is at a second selected temperature range, and adding a second process air flow to the hot zone if the hot zone temperature rises above the second selected temperature range.

The Armstrong reference does not teach or suggest a method including a fuel reformer positioned within a reformer zone, and a fuel cell stack positioned

within a hot zone as recited in claim 26. In rejecting claim 26, the Examiner attempts to dismiss the relative positioning of the reformer and fuel cell in claim 26 and the Armstrong reference by stating that it would have been obvious to position the reformer within the reformer zone, and the fuel cell stack within the hot zone, "since it has been held that rearranging parts of an invention involves only routine skill in the art". See *In re Japikse*, 86 USPQ 70 (CCPA 1950); *Final Office Action*, pg. 5. Applicants disagree with the Examiner's position.

The *Japikse* case included claims directed to a hydraulic power press, which read on the prior art except with regard to the position of the starting switch. See *id.* The claims in *Japikse* were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device. See *id.* In contrast to the situation in *Japikse*, the operation of the fuel cell system in the Armstrong reference would be substantially modified by positioning the reformer in a reformer zone, and separately positioning the fuel cell stack in a hot zone. In the Armstrong reference, both the reformer (22) and the fuel cell stack (24) are positioned within the same zone (18). See *Armstrong*, FIG. 1. By separately positioning the reformer in a reformer zone and a fuel cell stack in a hot zone as in claim 26, the zones may be maintained at different temperatures thereby allowing the reformer and fuel cell stack to operate more efficiently. See *Specification*, pg. 5, lines 3-9; pg. 6, line 10 to pg. 9, line 12. Therefore, the positioning of the reformer and fuel cell stack as set forth in claim 26 provides an operational advantage over the arrangement set forth in the

Armstrong reference, and does not merely involve rearranging parts to arrive at the same result obtained in the Armstrong reference.

Furthermore, the Examiner has failed to provide any reason why one of ordinary skill in the art would have been motivated to modify the Armstrong reference, as proposed by the Examiner, to suggest the invention as set forth in claim 26. In order to establish a prima facie case of obviousness, the Examiner is required to provide a reason why one of ordinary skill in the art would have been motivated to modify the prior art to arrive at the claimed invention. See *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Int. 1985). Even when obviousness is based on a single prior art reference, there must be actual evidence showing a suggestion or motivation to modify the teachings of that reference. See *In re Kotzab*, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000). The showing must be clear and particular. See *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999); see also *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968) (stating that a rejection based upon 35 U.S.C. § 103(a) must rest on a factual basis).

For at least the foregoing reasons, Applicants request that the rejection of claim 26 be withdrawn. As claims 27-30, 32-38 and 47-49 depend either directly or indirectly from claim 26, these claims are also not taught or suggested by the Armstrong reference for at least the same reason set forth with respect to claim 26. Applicants request that the rejection of claims 27-30, 32-38 and 47-49 be withdrawn.

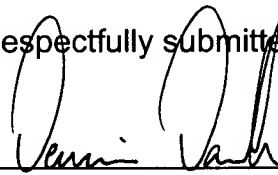
Conclusion

In light of the foregoing, Applicants submit that claims 26-30, 32-38 and 47-49 are in condition for allowance and such allowance is respectfully requested. Should the Examiner feel that any unresolved issues remain in this case, the undersigned may be contacted at the telephone number listed below to arrange for an issue resolving conference.

Applicants do not believe that any fee is due at this time. However, the Commissioner is hereby authorized to charge any fee that may have been overlooked to Deposit Account No. 10-0223.

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Respectfully submitted,



Dennis B. Danella
Reg. No. 46,653

JAECKLE FLEISCHMANN & MUGEL, LLP
190 Linden Oaks
Rochester, New York 14625-2812
Tel: (585) 899-2930
Fax: (585) 899-2931